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Attorneys for Defendant and Counterclaimant  
BIOSEARCH TECHNOLOGIES, INC.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

LIFE TECHNOLOGIES CORP.,

Plaintiff,

vs.

BIOSEARCH TECHNOLOGIES, INC.,

Defendant.

BIOSEARCH TECHNOLOGIES, INC.,

Counterclaimant,

vs.

LIFE TECHNOLOGIES CORP.

Counterclaim-  
Defendant.

Case No. 10-CV-2665 JAH (MDD)

**BIOSEARCH TECHNOLOGIES, INC.'S  
EX PARTE APPLICATION TO  
RESCHEDULE EARLY NEUTRAL  
EVALUATION CONFERENCE**

1 Defendant and Counterclaimant Biosearch Technologies, Inc. (“Biosearch”) hereby  
 2 applies *ex parte* to the Court to reschedule the Early Neutral Evaluation (“ENE”) currently  
 3 scheduled for June 20, 2011 before the Honorable Mitchell D. Dembin, United States Magistrate  
 4 Judge.

5 Counsel for the parties have conferred regarding this application. Declaration of Daniel  
 6 Johnson, Jr. in support of *Ex Parte* Application (“Johnson Decl.”), ¶ 2. Plaintiff and  
 7 Counterclaim Defendant Life Technologies, Inc. (“Life Tech”) does not oppose this application.

8 The Court originally set an Early Neutral Evaluation in this matter for April 29, 2011 at  
 9 9:00 a.m. before United States Magistrate Judge William V. Gallo (Dkt. No. 15). On April 27,  
 10 2011, the Court *sua sponte* rescheduled the date for the ENE to June 1, 2011, at 9:00 a.m. (Dkt.  
 11 No. 20). On April 29, 2011, this case was transferred from the calendar of the Honorable William  
 12 V. Gallo to the calendar of the Honorable Mitchell D. Dembin (Dkt. No. 21) and on May 23,  
 13 2011, the Court rescheduled the date for the ENE to June 20, 2011 at 2:30 p.m. (Dkt. No. 23).  
 14 However, on that date, and from the dates of June 20 through 29, Biosearch President and CEO,  
 15 Dr. Ronald Cook, is scheduled to be on a pre-planned family vacation. Johnson Decl., ¶ 3.

16 Further, lead trial counsel for Biosearch is set for a three-week trial in the Eastern District  
 17 of Virginia that begins July 12. Johnson Decl., ¶ 4. This will require travel to Virginia no later  
 18 than July 7. *Id.* In addition, Biosearch and Life Tech are scheduled for a claim construction  
 19 hearing on August 23, 2011, in the Eastern District of Texas in another patent infringement  
 20 lawsuit brought by Life Tech and Applied Biosystems, LLC against Biosearch and other  
 21 defendants. Johnson Decl., ¶ 5. This will require related travel to and from Marshall, Texas on  
 22 August 22 and August 24. *Id.*

23 Life Tech and its counsel are also not available on the following dates due to pre-planned  
 24 travel and court hearings: June 6, 10, 15-16; July 4-8, 11, 14, 18, 21; August 1-12 and 23.

25 Should the Court schedule the ENE for September 2011, Dr. Cook cannot attend  
 26 September 2-9. Johnson Decl., ¶ 6.

27 Based upon the foregoing, Biosearch respectfully applies to the Court to reschedule the  
 28 ENE from June 20, 2011, to a date available on the Court’s calendar after August 12 (excluding

1 August 22-24 and September 2-9). Alternatively, the parties will be available for a conference  
2 call with the Court's clerk to reset the ENE in light of the calendars of the parties and the  
3 Honorable Magistrate Judge Dembin.

4 Dated: June 1, 2011

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By s/ Rita E. Tautkus

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 1, 2011, I electronically filed the following document(s) with the Clerk of the Court for the United States District Court, Southern District of California by using the CM/ECF system:

**BIOSEARCH TECHNOLOGIES, INC.'S *EX PARTE* APPLICATION TO RESCHEDULE EARLY NEUTRAL EVALUATION CONFERENCE**

**DECLARATION OF DANIEL JOHNSON, JR. IN SUPPORT OF BIOSEARCH TECHNOLOGIES, INC.'S *EX PARTE* APPLICATION TO RESCHEDULE EARLY NEUTRAL EVALUATION CONFERENCE**

The participants listed below in the case whom are "active" registered CM/ECF users will be served by the CM/ECF system:

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I declare that I am employed by a member of the bar of this Court, at whose direction this service was made.

Dated: June 1, 2011

s/ Mary Jensen

Mary Jensen